

said defendant in violation of the Food and Drugs Act on or about December 23, 1933, from the State of New York into the State of Ohio of a quantity of apples which were adulterated. The article was labeled in part: "Swift Bros. Middleport, N. Y."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On November 22, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$50.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**25263. Adulteration of canned prunes; adulteration and misbranding of canned cherries. U. S. v. Paulus Bros. Packing Co. Plea of guilty. Fine, \$1,800. (F. & D. no. 33923. Sample nos. 20449-B, 41307-A, 54778-A, 56437-A, 56443-A, 59203-A, 59243-A, 60426-A, 60802-A, 65752-A, 65899-A, 67270-A, 69752-A.)**

This case was based on interstate shipments of canned prunes which contained an excessive number of decomposed prunes, and interstate shipments of canned cherries one lot of which contained cherries infested with maggots, and another lot of which the contents of the cans were short in weight.

On May 10, 1935, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Paulus Bros. Packing Co., a corporation, Salem, Oreg., charging shipment by said defendant in violation of the Food and Drugs Act, on or about November 8 and December 8, 1933, February 1, 3, and 16, and December 6, 1934, from the State of Oregon into the States of Missouri, Minnesota, New York, and Illinois, of quantities of canned prunes which were adulterated; and on or about February 10 and March 2, 1934, from the State of Oregon into the States of New York and Massachusetts of quantities of canned cherries which, in one of the two consignments thereof were adulterated and in the other consignment were misbranded.

The canned prunes in the several consignments thereof were labeled, respectively, as follows: "May-Flower Brand Trade Mark Fresh Prunes Contents 6 Lbs. 12 Oz. Distributed by Marshall Canning Co. Marshalltown, Iowa."; "Red Tag Choice Fresh Oregon Prunes In Syrup Trade Mark Net Weight 6 Lbs. 4 Ozs. Select Pacific Coast Fruits Paulus Bros. Packing Co. Salem, Oregon, U. S. A."; "Blue Tag Fresh Oregon Prunes In Syrup Net Weight 6 Lbs. 14 Ozs. Select Pacific Coast Fruits Paulus Bros. Packing Co. Salem, Oregon, U. S. A."; "White Tag Fresh Oregon Prunes Net Weight 6 Lbs. 8 Ozs. Select Pacific Coast Fruits Paulus Bros. Packing Co. Salem, Oregon, U. S. A."; "Epicure Brand Food Products are Best Sungle-Sills Co. Distributors New York. Fresh Purple Prunes Contents 6 Lbs. 14 Ozs.—3.12 Kilograms." The canned cherries in two consignments thereof were labeled, respectively: "Republic Food Products Austin, Nichols & Co., Inc. Wholesale Distributors New York, N. Y. U. S. A. Royal Anne Cherries Contents 6 Lbs. 9 Ozs.—2.98 Kilograms."; "Johnson's Reg. U. S. Pat. Off. M. A. Johnson Co. Boston and New York Distributors Bestovall Brand Royal Anne Choice Pitted Cherries Contents 6 Lbs. 14 Ozs."

The canned prunes in all of the consignments thereof were alleged to be adulterated in that they consisted in part of a decomposed vegetable substance.

The canned cherries in one of the two consignments thereof were alleged to be adulterated in that they consisted in part of filthy vegetable and animal substances due to heavy infestation with maggots contained therein. The canned cherries in the second consignment thereof were alleged to be misbranded in that the statement, "Contents 6 Lbs. 14 Oz.", borne on the label, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since said statement represented that each of the cans amounted to 6 pounds 14 ounces, whereas in fact the contents of each of the cans amounted to less than 6 pounds 14 ounces. Misbranding of the canned cherries in the second consignment was alleged further in that they were an article of food in package form and the quantity of the contents was not plainly and conspicuously stated on the outside of the package, since the quantity of the contents of the package was less than that declared thereon.

On December 2, 1935, a plea of guilty was entered on behalf of the defendant corporation and the court imposed a fine of \$1,800.

R. G. TUGWELL, *Acting Secretary of Agriculture.*